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## DOCUMENTS

To meet the demand for an enlargement of the liberty granted the Indians and the mixed breeds living on the reservations, the Massachusetts Legislature enacted in 1861 the following measure intended to offer every ambitious one of these groups a way of escape from the wardship of the State and at the same time safeguarding the interests of those who objected to having turned loose upon society a large number of dependents who could not function as persons having a permanent attachment to the community and primarily concerned with the welfare of the body politic.

### COMMONWEALTH OF MASSACHUSETTS.

IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND SIXTY-ONE.

### AN ACT

#### CONCERNING THE INDIANS OF THE COMMONWEALTH

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:—*

Sect. 1. All Indians and descendants of Indians in this State are hereby placed on the same legal footing as the other inhabitants of the Commonwealth, excepting those who are supported, or have been, in whole or in part, by the State, and excepting also, those residing on the Indian plantations of the Chappequidick, Christiantown, Gay Head, Marshpee, Herring Pond, Fall River, and Dudley tribes, or those whose homes are thereon and are only temporarily absent.

Sect. 2. Any Indian or person of color, belonging to either of the tribes before mentioned, and residing within the limits of any town or city of this Commonwealth, to whom the right of citizenship is not extended by the first section of this act but who wishes to exercise that privilege, may certify the same in writing to the

clerk of the town or city where he resides, who shall make record of the same; and upon paying a poll tax, he shall become, to all intents and purposes, a citizen of the State, and shall not, thenceforward, return to the legal condition of an Indian. And settlement shall be required, by those who become citizens, under the provisions of this act, in the same manner they are acquired by other persons, under the General Statutes of the Commonwealth.

Sect. 3. It shall be the duty of the governor, by and with the advice and consent of the council, to appoint an able, discreet, and suitable person, to be Indian commissioner, who shall hold his office for the term of three years, unless sooner removed by the governor and council. And the governor and council shall fill all vacancies which shall happen in said office, by death, resignation, expiration of said term, or otherwise. It shall be the duty of said commissioner to exercise a careful supervision over the affairs of all the Indians of the Commonwealth, not endowed by the provisions of this act, with the rights of citizenship, and to aid them, by advice, counsel, and whatever other suitable means may be within his control, to promote their welfare, to improve their general condition, and to qualify themselves, judiciously, and with safety to themselves and others, to be placed, at as early a time as may be, on the same legal footing as the other inhabitants of the Commonwealth. He shall exercise all the powers, perform all the duties, and be subject to all the restrictions, responsibilities and liabilities, which now by law appertain to the treasurer of Marshpee, and to the guardians of other tribes except so far as they may be charged or varied by the provisions of this act; and he shall give bonds, to the satisfaction of the governor and council, for the faithful performance of such trust.

Sect. 4. The said commissioner shall, as soon as is convenient, after his appointment, cause a registration to be made, on the basis of the general registration of the State, of all the members of the several tribes, specifying the parentage and date of the birth of each, as near as can be ascertained, and the date of all marriages of parties now living, with all the particulars, that are now required of town clerks, by the laws of the State, and having completed the same, up to the time required by law for the last preceding return to be made, he shall, thenceforward make and keep a true registration of all the births, marriages, and deaths, in each of the said tribes, and shall annually make due return thereof, the whole to be done in the same manner as is required of town clerks,

and under the same liabilities and conditions that are, by law, imposed upon them.

Sect. 5. The said commissioner shall, in concurrence with the proper officers of the Gay Head tribe, cause a survey of all the land held in severalty, by the members of said tribe, setting out the same to each, by betes and bounds, and, when the survey is complete, shall cause a record of the portion of each proprietor to be made in the registry of deeds, of the county of Dukes County, and thereupon, the legal title shall vest in the several proprietors thereof, their heirs, and assigns, forever: *provided, however*, that no land on the plantation shall ever be alienated from the tribe or be held or possessed by any person who is not a member thereof; and when ever the family of any proprietor becomes extinct, the real estate of said proprietor shall revert to said tribe and become the property thereof, in common. And whenever, hereafter, any common land shall be taken up to be occupied and possessed in severalty, by any member of the tribe, having the concurrence of the tribe therein, the same shall be surveyed, set forth, and recorded, under the supervision of said commissioner, as is above provided; and no title to any common land, to be held in severalty, on said plantation shall be acquired in any other manner.

Sect. 6. The said commission shall cause a survey to be made of the Indian plantation at Fall River and the bounds thereof to be renewed, agreeably to the surveys made by order of the State in one thousand seven hundred and sixty-three. He shall ascertain to whom the several lots belong by hereditary descent from the proprietors to whom they belonged in one thousand seven hundred and sixty-four, so far as descendants of said proprietors still remain, and shall designate the same by the numbers of the lots respectively; and in the same manner, he shall designate the several lots, if such there be, of which the families of the former proprietors have become extinct, and shall make return of the same to the governor and council, for the use of the legislature, and shall report such other facts connected therewith as may be useful to them, and shall recommend such disposition of the land remaining in common, as in his judgment, shall be most conducive to the welfare of the Indians, and of the State.

Sect. 7. The said commissioner shall, as soon as the performance of the duties of his office shall have made him sufficiently acquainted with the necessities and wants of the Indians, and with the other facts necessary to qualify him for the service, prepare a

bill embodying a system for governing, managing, and regulating the affairs of the several tribes, as nearly uniform in its provision respecting them severally, as the circumstances of the different tribes will permit, as a substitute for the present laws on that subject, and report the same to the governor and council for the consideration of the legislature, accompanied by the reasons on which the several provisions therein recommended are sustained.

Sect. 8. The Indians and people of color on Gay Head, and the officers by them appointed for the purpose, shall have the same powers in the management of their municipal affairs, and in relation to the employment of teachers, and the making and enforcing of all rules for the regulation and government of their schools, that by law are exercised by the inhabitants and corresponding officers of the several towns of the Commonwealth: *provided, however*, that this shall not be construed to authorize the alienation of any of the territory of the plantation: and *provided, further*, that no person shall be authorized to vote in municipal affairs, except natives of the Gay Head tribe, natives of other Indian tribes of this State married or having been married to a Gay Head woman and resident on the plantation, or such other person resident on the plantation and married or having been married to a Gay Head woman, as shall have the right conferred on him by a vote of two-thirds of the voters of the plantation.

Sect. 9. All acts and parts of acts heretofore passed, so far as they conflict with the provisions of this act, are hereby repealed.

Sect. 10. This act shall take effect from and after its passage.

If the legislature should decide not to authorize the appointment of a single commissioner for the State, I would propose the passage of the same Bill with the following amendments:—

Strike out the whole of section 3.

Strike out in section 4 the words “said commissioner shall, as soon as is convenient after his appointment,” and insert the words—clerks of Marshpee, the guardians of the several plantation tribes, and the clerk of Gay Head shall.

In section 5, strike out the words “said commissioner,” and insert the words—guardians of the Chappaquiddick and Christian-town tribes. Also, in the latter portion of the same section, strike out the word “commissioner” and insert the word—guardian.

In section 6, strike out the words “said commissioner,” and insert the words—guardian of the Troy or Fall River tribe.

Strike out section 7, entire.

Alter the numbering of the sections after 2, to correspond to the changes.

Insert the following section after section 8:—

Sect. —. No person shall be entitled to support by any tribe in the State, of whose parents, one only was an Indian, and whose residence was not on the plantation of the tribe at the time of his birth, unless the rights of himself or parents as members of the tribe, shall have been subsequently recognized by the tribe.